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ABSTRACT

This pamphlet outlines the provisions of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against students on the basis of handicap, in programs or activities that receive federal financial assistance. The evaluation and placement procedures that schools must carry out to determine the educational needs of a handicapped student are discussed. Also briefly discussed are educational settings, re-evaluations, individualized education programs, procedural safeguards, and nonacademic services and activities. The pamphlet concludes with a list of the regional offices of the Office for Civil Rights of the U.S. Department of Education. (JDD)

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STUDENT PLACEMENT IN ELEMENTARY AND SECONDARY SCHOOLS and SECTION 504

Section 504 of the Rehabilitation Act of 1973

Prohibits Discrimination on the Basis of Handicap

in Programs or Activities That Receive Federal Financial Assistance

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U.S. Department of Education
Office for Civil Rights
Washington, D.C. 20202-1328

STUDENT PLACEMENT AND SECTION 504 IN ELEMENTARY AND SECONDARY SCHOOLS

Discrimination against students on the basis of handicap is prohibited in programs or activities that receive Federal financial assistance.

Section 504 of the Rehabilitation Act of 1973 requires that:

> No qualified handicapped person shall, on the basis of handicap, be excluded from the participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.[1]

The Office for Civil Rights of the Department of Education enforces the law prohibiting specific discriminatory activities, including the discriminatory assignment of handicapped students to segregated classes or facilities. The law applies to elementary and secondary as well as postsecondary schools. In elementary and secondary schools, handicapped students may be assigned to separate facilities or courses of special education only when such placement is necessary to provide them equal educational opportunity.

To determine what the educational needs of a handicapped student may be, schools must carry out preliminary evaluation and placement procedures. Specific elements that must be considered are discussed below.

Evaluation and Placement Procedures

Before placing handicapped students in any educational program, schools must evaluate carefully each student's skills and special needs. Federal

[1] Department of Education regulation for Section 504.

requirements set forth standards for conducting proper evaluations and placement procedures.[2]

The tests and evaluation materials that are used must be chosen to assess specific areas of the student's need. For example, a student may not be assigned to special education classes on the basis of only one IQ test. When a student with impaired sensory, manual, or speaking skills is evaluated, the test results must accurately reflect whatever the test is supposed to measure, not the student's impaired skills (except where those skills are what is being measured). Only trained persons may administer the tests or evaluation materials.

Placement decisions must be made by a team of people who know about the student and understand the meaning of the evaluation information. The placement team must consider a variety of documented information for each student. The information must come from several sources, including aptitude, and achievement tests, teacher recommendations, reports on physical condition, social or cultural background, and adaptive behavior.

The placement team must also be aware of different options for placing the student, so that the student is placed in an appropriate educational setting. See section on *Educational Setting*, below.

[2] The Education of the Handicapped Act (EHA), which provides for Federal financial assistance to states to ensure that each handicapped child receives a free and appropriate public education, also regulates placement of handicapped students in special education programs. This act is administered by the Office of Special Education and Rehabilitative Services, Department of Education.

For more information on requirements for the evaluation and placement of handicapped students, contact the Office for Civil Rights (OCR).[3] Addresses of regional OCR offices appear at the back of this pamphlet.

Educational Setting

The law requires that handicapped students be educated along with nonhandicapped students to the maximum extent appropriate to the needs of the handicapped students. This means that handicapped students must be assigned to regular courses or classes if the students' needs can be met there, and that decisions on their academic placement must be based on the individual student's needs.

Handicapped students may be placed in a separate class or facility only if they cannot be educated satisfactorily in the regular educational setting with the use of supplementary aids and services. For example, blind students may be assisted by readers or may use braille equipment and remain in the regular classrooms; but students with severe learning disabilities may be assigned to special education classes for part of the day.

Schools that do not offer the special educational programs or facilities that may be required by a handicapped student may refer that student to another school or educational institution. However, the student's home district remains responsible for providing the student a free and appropriate education.

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[3] Except in extraordinary circumstances, OCR does not review individual placement or other educational decisions, so long as the school complies with the process requirements of the Section 504 regulation. However, OCR will place a high priority on investigating cases that may involve the exclusion of a child from the education system or a pattern and practice of discriminatory placements or education.

For more information regarding appropriate educational settings, referred placement, and supplementary aids and services, contact the Office for Civil Rights. Addresses of regional OCR offices are listed at the back of this pamphlet.

Reevaluations

The performance and skill levels of handicapped students frequently change, and students must be allowed to change from assigned classes and programs accordingly. However, a school may not make a significant change in a handicapped student's placement without a reevaluation. Schools must conduct periodic reevaluations of all handicapped students.

Individualized Education Program

The Education of the Handicapped Act (EHA) requires schools to develop an individualized education program (IEP) for each handicapped student, according to specific standards. An IEP that meets the requirements of the EHA also fulfills the requirements of Section 504 for determining what is an appropriate education for a handicapped student.

Procedural Safeguards

Schools must establish procedures that allow the parents or guardians of students in elementary and secondary schools to challenge evaluation and placement procedures and decisions. The law requires that parents or guardians be notified of any evaluation or placement action, and that they be allowed to examine the student's records.

If they disagree with the school's decisions, parents or guardians must be allowed to have an impartial hearing, with the opportunity to participate in the discussions. A review procedure must be made available to parents or guardians who disagree

with the decision of the first hearing. For more information on procedural safeguards, contact the Office for Civil Rights. Addresses of regional OCR offices appear at the back of this pamphlet.

Nonacademic Services and Activities

Handicapped students may not be excluded from participating in extracurricular activities and nonacademic services. These may include counseling services, physical education, and recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, referrals to agencies that provide assistance to handicapped persons, and employment of students.

Discrimination in counseling practices is prohibited. Counselors must not advise qualified handicapped students to make educational choices that lead to more restrictive career objectives than would be suggested for nonhandicapped students with similar interests and abilities.

For more information on student placement under Section 504 and discriminatory practices in student assignment on the basis of handicap, contact the Office for Civil Rights. Addresses of OCR regional offices are listed at the back of this pamphlet.

U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGIONAL CIVIL RIGHTS OFFICES

REGION I

Connecticut, Maine, Massachusetts,
New Hampshire, Rhode Island, Vermont

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region I
John W. McCormack, Post Office and
Courthouse Building, Rm. 222
Post Office Square, Rm. 222
Boston, Massachusetts 02109-4557
(617) 223-9662 TDD (617) 223-9695

REGION II

New Jersey, New York, Puerto Rico,
Virgin Islands

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region II
26 Federal Plaza, 33rd Floor, Room 33-130
New York, New York 10278-0082
(212) 264-4633 TDD (212) 264-9464

REGION III

Delaware, District of Columbia, Maryland,
Pennsylvania, Virginia, West Virginia

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region III
3535 Market Street, Room 6300
Philadelphia, Pennsylvania 19104-3326
(215) 596-6772 TDD (215) 596-6794

REGION IV

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region IV
101 Marietta Tower - 27th Floor, Suite 2702
Mail To: P.O. Box 1705
Atlanta, Georgia 30301-1705
(404) 331-2954 TDD (404) 331-7816

REGION V

Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region V
401 South State Street - 7th Floor, Room 700C
Chicago, Illinois 60605-1202
(312) 886-3456 TDD (312) 353-2541

REGION VI

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region VI
1200 Main Tower Building - Suite 2260
Dallas, Texas 75202-9998
(214) 767-3959 TDD (214) 767-3639

REGION VII

Iowa, Kansas, Missouri, Nebraska

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region VII
P.O. Box 901381
10220 N. Executive Hills Blvd., 8th Floor
Kansas City, Missouri 64190-1381
(816) 891-8026

REGION VIII

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region VIII
1961 Stout Street, Room 342
Denver, Colorado 80294-3608
(303) 844-5695 TDD (303) 844-3417

REGION IX

Arizona, California, Hawaii, Nevada, Guam, Trust Territory of the Pacific Islands, American Samoa

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region IX
221 Main Street, 10th Floor, Suite 1020
San Francisco, California 94105-1925
(415) 227-8040 TDD (415) 227-8124

REGION X

Alaska, Idaho, Oregon, Washington

Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region X
Mail Code 10-9010
915 Second Avenue, Room 3310
Seattle, Washington 98174-1099
(206) 442-1636 TDD (206) 442-4542

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